

**HOGAN & HARTSON**  
L.L.P.

EX PARTE OR LATE FILED

August 28, 1998

MICHELE C. FARQUHAR  
PARTNER  
DIRECT DIAL (202) 637-5663  
INTERNET MF7@DC2.HHLAW.COM

COLUMBIA SQUARE  
555 THIRTEENTH STREET, NW  
WASHINGTON, DC 20004-1109  
TEL (202) 637-5600  
FAX (202) 637-5910

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W. Room 222  
Washington, D.C. 20554

**RECEIVED**

AUG 28 1998

Re: **Ex Parte**  
**PR Docket No. 92-235**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**ORIGINAL**

Dear Ms. Salas:

The American Automobile Association ("AAA") would like to bring to the FCC's attention several recent filings with the Wireless Telecommunications Bureau which highlight new interference problems that will endanger the emergency road service operations of several AAA Clubs.

Specifically, the California State Automobile Association, AAA Carolinas, and AAA North Jersey have challenged six recent land mobile applications or assignments that jeopardize AAA's provision of emergency services in Northern California, Utah, North Carolina, and New Jersey (see attached filings). As these filings demonstrate, the licensing of these already-occupied frequencies would threaten public safety by damaging AAA's ability to respond to frequent and critical emergency road service calls from the public as well as public safety agencies.

Because AAA utilizes less than 43 frequencies and responds to an emergency road service call every 4.5 seconds, or 80,000 calls per day, it uses its radio frequencies more intensively and efficiently than most other users of the Industrial/Business Pool. Based on recent assignments by other frequency coordinators and the specific applications referenced above, AAA continues to fear that other coordinators may be unfamiliar with the unique needs and usage patterns of auto emergency users and will make problematic assignments that cause interference on the former Auto Emergency frequencies.

Granting AAA's pending request for "quasi-public safety" status in this proceeding would prevent further interference problems of this nature and would enable AAA to ensure that its critical safety operations are not endangered by new frequency assignments. As noted in AAA's June 12, 1998 letter to the FCC and its

BRUSSELS BUDAPEST LONDON MOSCOW PARIS\* PRAGUE WARSAW

BALTIMORE, MD BETHESDA, MD COLORADO SPRINGS, CO DENVER, CO LOS ANGELES, CA NEW YORK, NY

\\DC - 65117/4 - 0709585.01

\*Affiliated Office

Number of Copies rec'd 0+3  
HOGAN & HARTSON

The Honorable William E. Kennard

Page 2

August 28, 1998

July 23, 1998 "Myths and Realities" paper, AAA has already established that it meets the FCC's own stated criteria for "quasi-public safety" status. Moreover, comments filed on behalf of AAA by U.S. Senators Conrad Burns and Byron Dorgan, the National Highway Traffic Safety Administration, National Transportation Safety Board, and more than thirty state and local public safety agencies and officials, as well as Congress' express acknowledgment of AAA's public safety role in the 1997 Balanced Budget Act, lend additional support to AAA's petition.

Finally, AAA is submitting a copy of a recent National Transportation Safety Board press release (attached) highlighting the need to improve highway safety, which notes that "highway fatalities accounted for more than 94 percent of the transportation deaths (42,000) in 1997." Because AAA serves more than 40 million members, a very large percentage of motorists rely on AAA every day to provide emergency road service, and one-third of their calls involve immediate threat to life or property. Just as the FCC has taken steps to ensure that wireless subscribers will have improved access to public safety services through enhanced 911, the FCC should ensure that these 40 million AAA members and the public safety agencies who rely on AAA receive the best possible service, not a decreasing level of service due to interference concerns.

Therefore, AAA respectfully requests that the FCC grant its pending reconsideration petition.

Respectfully submitted,



Michele C. Farquhar  
HOGAN & HARTSON, L.L.P.  
555 13th Street, N.W.  
Washington, D.C. 20004  
(202) 637-5600

Counsel for the American Automobile  
Association

cc: Chairman Kennard, and Commissioners Susan Ness, Harold Furchtgott-Roth,  
Michael Powell, Gloria Tristani  
Wireless Legal Advisors to the Commissioners (Ari Fitzgerald, Daniel Connors,  
Paul Misener, Peter Tenhula, Karen Gulick)  
Wireless Telecommunications Bureau staff (Daniel Phythyon, Josh Roland,  
D'wana Terry, Herbert Zeiler, Laura Smith, Ira Keltz)



# NEWS

**National Transportation Safety Board**  
Washington, D.C. 20594

FOR IMMEDIATE RELEASE: August 10, 1998

SB 98-30

## **TRANSPORTATION FATALITIES HOLD STEADY IN 1997; HIGHWAY DEATHS HIT 42,000, NTSB REPORTS**

WASHINGTON, D.C. – The number of persons who died in transportation accidents in the United States and its territories remained virtually steady between 1996 and 1997, according to preliminary statistics released today by the National Transportation Safety Board. Total transportation fatalities, in all modes, were 44,619 in 1996, compared to 44,603 last year.

Highway fatalities accounted for more than 94 percent of the transportation deaths (42,000) in 1997.

"It is encouraging that transportation fatalities did not rise in 1997, even though more and more people are traveling every year," NTSB Chairman Jim Hall said. "However, highway deaths, among the more preventable in transportation, continue to account for most transportation fatalities, emphasizing the importance of Safety Board initiatives in drunk driving, seat belt and graduated licensing legislation."

The largest increase in highway deaths occurred in the category of light trucks and vans, which experienced 422 more fatalities in 1997 than in 1996. This continues a five-year trend in which this category has accounted for a larger share of highway deaths each year, from 21 percent in 1993 to 25 percent last year. Passenger car fatalities have remained at about 54 percent each year.

The number of persons killed in aviation accidents dropped from 1,093 in 1996 to 976 in 1997, despite a large increase involving aircraft not registered in the United States. The 236 deaths in that category, compared with just 5 in 1996, are mostly attributable to the 228 persons who died aboard a Korean Air Boeing 747 that crashed in Guam in August. While general aviation fatalities increased from 631 to 646, airline deaths fell from 380 in 1996 – the year of the ValuJet and TWA flight 800 accidents – to 8 in 1997.

- 2 -

**Fatalities involving rail transportation fell from 752 to 746 in 1997, with the vast majority (584) being persons walking along or crossing tracks. Deaths among train passengers dropped from 12 to 6.**

**Marine deaths increased from 814 to 870, due to an increase in recreational boating fatalities of almost 100. Fatalities in marine cargo transportation and commercial fishing declined.**

**Pipeline fatalities fell from 53 in 1996 (33 of them in one accident in Puerto Rico) to 11 in 1997.**

**Aviation statistics are compiled by the NTSB. Data on the other modes of transportation are reported to the Board from the U.S. Department of Transportation. The attached table and chart provide a further breakdown of 1996 transportation fatality statistics. All 1997 data are preliminary.**

- 30 -

**NTSB Media Contact: Ted Lopatkiewicz  
(202) 314-6100**

***Note to Editors: This release and other NTSB information can be found on the World Wide Web at [www.nts.gov](http://www.nts.gov).***

# National Transportation Safety Board

## 1997 U.S. Transportation Fatalities

	1996	1997 <sup>1</sup>
<b>Highway:</b>		
Passenger cars	22,416	22,227
Light trucks and vans	9,901	10,323
Pedestrians	5,412	5,300
Motorcycles	2,160	2,099
Pedalcycles	761	800
Medium and heavy trucks	621	711
Buses	21	15
All other	615	525
<b>Total</b>	<b>41,907</b>	<b>42,000</b>
<b>Grade Crossings: <sup>2</sup></b>	<b>(488)</b>	<b>(450)</b>
<b>Rail:</b>		
Intercity		
Trespassers and nontrespassers <sup>3</sup>	570	584
Employees and contractors	42	49
Passengers on trains	12	6
Light and commuter rail	128	107
<b>Total</b>	<b>752</b>	<b>746</b>
<b>Marine:</b>		
Recreational boating	709	800
Cargo transport	29	16
Commercial fishing <sup>4</sup>	76	54
<b>Total</b>	<b>814</b>	<b>870</b>
<b>Aviation:</b>		
General aviation	631	646
Airlines	380	8
Air taxi	63	40
Commuter	14	46
Foreign / unregistered <sup>5</sup>	5	236
<b>Total</b>	<b>1,093</b>	<b>976</b>
<b>Pipeline:</b>		
Gas <sup>6</sup>	48	11
Liquids	5	0
<b>Total</b>	<b>53</b>	<b>11</b>
<b>Grand Total:</b>	<b>44,619</b>	<b>44,603</b>

<sup>1</sup> 1997 figures are preliminary estimates supplied by modal agencies within Department of Transportation.

<sup>2</sup> Grade crossing fatalities are not counted as a separate category for determining the grand totals because they are included in the highway and rail categories, as appropriate.

<sup>3</sup> Does not include motor vehicle occupants killed at grade crossings.

<sup>4</sup> Refers to only operational fatalities.

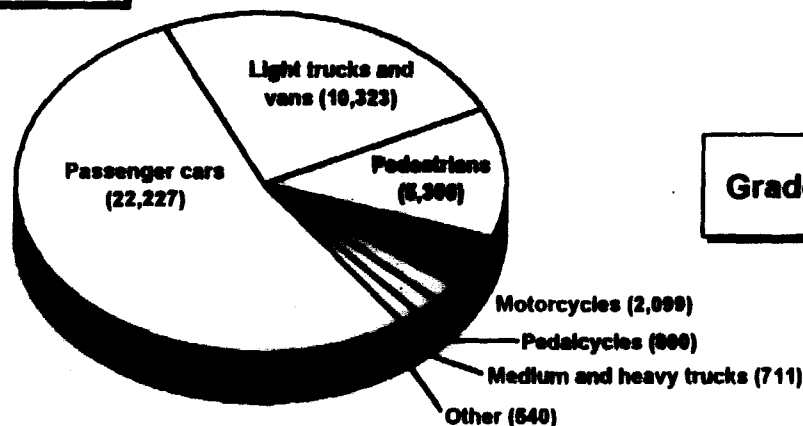
<sup>5</sup> Includes non-U.S. registered aircraft involved in accidents in the U.S.

<sup>6</sup> The number of pipeline-related fatalities for 1996 gas systems includes 33 associated with the explosion in San Juan, Puerto Rico on November 21, 1996.

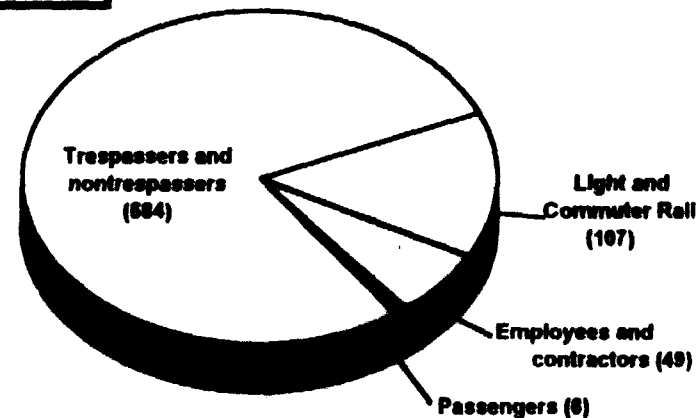
# National Transportation Safety Board

## 44,603 Transportation Fatalities in 1997

**Highway:  
42,000**

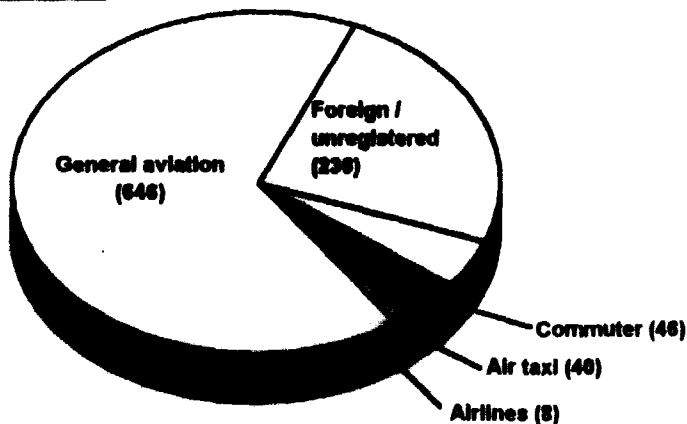


**Rail:  
746**

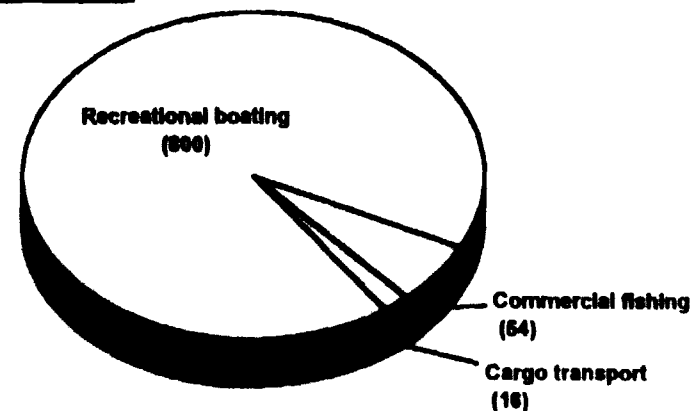


**Grade crossings: 450**

**Aviation:  
976**



**Marine:  
870**



**Pipeline: 11**

Note: All data are preliminary estimates. Grade crossing fatalities are not included in the grand total because they were counted in the rail and highway categories, as appropriate. The pie charts are not drawn proportionately to each other. Aviation data come from the NTSB, all other data are from the U.S. Department of Transportation (DOT).

LAW OFFICES  
BLOOSTON, MORDKOFKY, JACKSON & DICKENS

2120 L STREET, N.W.  
WASHINGTON, D.C. 20037

HAROLD MORDKOFKY  
ROBERT M. JACKSON  
BENJAMIN H. DICKENS, JR.  
JOHN A. PRENDERGAST  
GERARD J. DUFFY  
ANDREW BROWN\*  
RICHARD D. RUBINO  
SUSAN J. BAHR  
D. CARY MITCHELL  
MICHAEL B. ADAMS, JR.

(202) 659-0830  
FACSIMILE: (202) 828-5568

PERRY W. WOOFER  
LEGISLATIVE CONSULTANT

EUGENE MALISZEWSKY  
DIRECTOR OF ENGINEERING  
PRIVATE RADIO

SEAN A. AUSTIN  
DIRECTOR OF ENGINEERING  
COMMERCIAL RADIO

ARTHUR BLOOSTON  
RETIRED

August 18, 1998

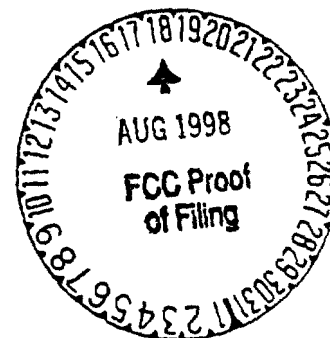
\* ADMITTED ONLY IN MAINE:  
SUPERVISION BY HAROLD MORDKOFKY,  
A MEMBER OF THE DC BAR

WRITER'S DIRECT DIAL NO.

BY HAND DELIVERY

Mary Shultz, Chief  
Licensing and Technical Analysis Branch  
Public Safety & Private Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
1270 Fairfield Road  
Gettysburg, PA 17325-7245

RE: Landlink Communications  
Application for 150.935 MHz  
File No. C002966  
Attention: MMS, BJE



Dear Ms. Shultz:

Enclosed please find an original and two copies of an informal protest filed on behalf of the California State Automobile Association in the above-referenced matter.

If you have any questions regarding this matter, please do not hesitate to contact this office.

Respectfully submitted,

*John Prendergast*  
John A. Prendergast

cc: William Phillips

# California State Automobile Association

SERVING THE MOTORIST SINCE 1900

150 VAN NESS AVENUE  
P.O. BOX 429186  
SAN FRANCISCO, CALIFORNIA 94142-9186



August 18, 1998

Mary Shultz, Chief  
Licensing & Technical Analysis Branch  
Public Safety & Private Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
1270 Fairfield Road  
Gettysburg, PA 17325-7245

**RE: Landlinx Communications  
Application for 150.935 MHz  
File No. C002966  
Attention: MMS, BJE**

Dear Ms. Shultz:

The California State Automobile Association, Inc. (CSAA), doing business in the state of Utah as the Auto Club of Utah, hereby requests that the Commission grant the application of Landlinx Communications, LLC (Landlinx) (File No. C002966) on a more suitable frequency since the channel coordinated (150.935 MHz) is already occupied by an incompatible user. As discussed below, granting a license to Landlinx on the frequency 150.935 MHz would be adverse to the public interest, considering the intensive use of this frequency by CSAA for emergency road services, and in light of Congress' explicit recognition of the vital public safety role of such radio operations. At the very least, we ask the Commission to refrain from processing Landlinx's application until the Commission has reached a final determination on how to implement Congress' mandate concerning the "quasi-public safety" status of automobile emergency radio operations.

CSAA is a not-for-profit organization responsible for providing emergency road services to approximately 3.8 million members in Northern California, Nevada and Utah. CSAA is currently licensed to operate on the channel 150.935 MHz, under Call Signs KUY548, KAS450, WXF950, KDV613, and KMP828. During the frequency coordination process, the Personal Communications Industry Association (PCIA) recommended that this frequency be assigned to Landlinx, despite the fact that it is currently being used by CSAA as a primary dispatch channel in the Salt Lake City area.

As discussed below, the recommendation of frequency 150.935 MHz is objectionable on a number of grounds, including: (1) it

N. R. WENTE  
CHAIR OF THE BOARD  
VALD R. JAMES  
VICE CHAIR OF THE BOARD

STAFF OFFICERS  
VIES P. MOLINELLI  
PRESIDENT  
EGORY A. SMITH  
SECRETARY  
VRENCER R. PENTIS  
TREASURER

BOARD OF DIRECTORS  
RUDY V. BRADY, PRESIDING  
D. ROBERT BARLOW, WALTONVILLE  
JOHN M. BROWN, HUNTSVILLE  
ROBERT J. CAMPBELL, MONROVIA  
PAULA R. COLLINS, SAN FRANCISCO  
T. FRANK GAMBLE, BAYVIEW  
NORMA J. HOWARD, HONOLULU  
RONALD R. JAMES, SAN JOSE  
JOHN T. KEMME, CARMICHAEL  
FRANK J. LEBARD, LOS ALAMOS  
SYLVESTER LUCENA, CHICO  
ALISTAIR W. MACDONALD, ARCADIA  
WILLIAM E. MCGRAW, SANTA ROSA  
MARTIN C. NELSON, FREMONT  
PATRICK O'NEIL, ARBONTE  
DOUGLAS A. OSE, SACRAMENTO  
JEANNE M. RAYNE, VALLEJO  
DONALD J. RYAN, M.D., LAS VEGAS  
LEO SOONS, WALNUT CREEK  
NAN L. SUSS, LOS ANGELES  
STEPHEN H. WAINWRIGHT, MERCED  
SHIRLEY A. WARD, SAN FRANCISCO  
JEAN R. WENTE, LIVERMORE  
KLINE A. WILSON, JR., OAKLAND

HONORARY DIRECTORS  
VICTOR E. ATYNS, SANTA BARBARA  
JACK CRAMER, SAN RAFAEL  
JACK F. DALY, JR., BUREAU  
HARVEY E. DAVIS, WALNUT CREEK  
HARRISON K. HOWARD, WALNUT CREEK  
MARTIN S. HUMPHREY, RENO  
FRANK MCGRAW, JR., SACRAMENTO  
STEPHEN S. MCGRAW, PACIFIC GROVE  
HARRY W. MCGRAW, CHICO  
WILLIAM M. OTTERSON, MERCED



creates the problem of frequency congestion which raises public safety concerns; (2) it presents the prospect that a regulatory scheme will be implemented which conflicts with congressional intent; and (3) Landlinx's proposal for multiple frequencies in the same area appears to be inconsistent with Rule Section 90.35(e).

Granting a license to Landlinx on the 150.935 frequency raises serious safety concerns. CSAA has been providing emergency road services for nearly one hundred years. It is evident, based on the number of emergency calls received by CSAA, that the public has come to rely on these services. Over the course of a year, CSAA responds to over 3 million emergency road service calls from motorists experiencing a wide variety of problems, many of which endanger the safety of drivers and passengers. Such situations require immediate attention. For example, CSAA often assists motorists who have been stranded on the road where they are vulnerable to harm from high-speed vehicles, adverse weather conditions, or crime.

State and local public safety agencies have also come to rely on the public safety services performed by CSAA. To facilitate communications between CSAA and public safety agencies, the telephone numbers of CSAA's dispatch centers have been programmed into the police and highway patrol databases and speed dialing systems. Police departments, 911 operators, and other public service agencies regularly call CSAA for assistance because they know that CSAA has the equipment, expertise and most importantly, the ability to respond quickly in these situations. In the absence of a prompt response by CSAA, these government agencies would be compelled to devote their own resources to clearing such hazards.

Indeed, this ability to respond immediately in urgent situations is the key to providing reliable automobile emergency road services. For this reason, it is essential that 150.935 MHz remains useable for its present operations. This frequency is already congested, particularly during the morning and evening rush hours when traffic accidents commonly occur, and CSAA is called into action. Typically, our tow truck operators use the channel 45-50 minutes out of the hour during rush hour or during extended storm periods. If Landlinx is allowed to use the same frequency, it is foreseeable that important automobile emergency calls may not get through in time, which could threaten the safety of the motorists involved, and contribute to substantial traffic delays.

Granting a license to Landlinx on the 150.935 MHz frequency would also be inconsistent with Congress' mandate to afford AAA and its auto clubs protection as quasi-public safety entities. In the Conference Report accompanying the Balanced Budget Act of 1997, Congress explicitly recognized the important public safety

role played by AAA auto clubs, noting that "the services offered by these entities protect the safety of life, health, or property and are not made commercially available to the public." H.R. Rep. No. 105-217, at 572 (1997). To ensure that auto clubs can continue to provide emergency road services to the public, Congress expressly exempted from the FCC's auction authority all licenses issued "for public safety radio services, including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations." Budget Act, Sec. 3002(a)(2)(A). Congress explained in the conference report that "[t]his service exemption also includes radio services used by not-for-profit organizations that offer emergency road services, such as the American Automobile Association. The Senate included this particular exemption in recognition of the valuable public safety service provided by emergency road services." H.R. Rep. No. 105-217, at 572 (1997). This language, which demonstrates Congress' intent to promote the types of public safety services offered by CSAA, supports our recommendation that Landlinx be granted a license on another frequency.

To ensure that the Commission recognized this action by Congress, AAA formally requested that the Commission provide greater protection to the Automobile Emergency Radio Service (AERS) frequencies in its Petition for Reconsideration in PR Docket 92-235 (as supplemented on September 5, 1997). In addition, AAA asked that the Commission refrain from licensing non-auto club entities on the AERS channels by letter dated November 24, 1997.


In its Public Notice dated October 15, 1997 (DA 97-2208) (Attachment A), the Commission acknowledged that the Balanced Budget Act, specifically Section 3002 (containing Congress' determination that the emergency road services constitute public safety services), may affect proceedings outside of the auction context. CSAA is exactly the kind of non-commercial organization Congress intended to protect. The Commission should therefore follow Congress' intent and protect CSAA, and the public, from the harm that would result if incompatible users are allowed to operate on the frequency 150.935 MHz.

We note that Landlinx has applied for a significant number of channels, in addition to the frequency 150.935 MHz. Rule Section 90.35(e) provides that "normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations in a given area." In light of the fact that Landlinx's proposal to acquire multiple channels at the same time will deprive safety related users of available spectrum, the requirements of Section 90.35(e) should be applied in this case.

For the above reasons, we ask that the Commission refrain from assigning Landlinx the frequency 150.935 MHz.

Respectfully submitted,

California State Automobile Association

A handwritten signature in black ink, appearing to read "Peter Fuerst", written over a horizontal line.

Peter Fuerst  
Emergency Road Service Supervisor

Attachment

cc: William Phillips

# **ATTACHMENT A**



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
1919 M STREET, N.W.  
WASHINGTON, D.C. 20554

DA 97-2208

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> [ftp.fcc.gov](ftp://ftp.fcc.gov)

Released: October 15, 1997

## **RULES ADOPTED IN THE REFORMING SECOND REPORT AND ORDER (PR DOCKET NO. 92-235) TO GO INTO EFFECT OCTOBER 17, 1997**

On February 20, 1997, the Commission adopted the *Second Report and Order (Second R&O)* in PR Docket No. 92-235. By this action, the Commission consolidated the twenty Private Land Mobile Radio Services into two broad pools - Public Safety and Industrial/Business. Additionally, the *Second R&O* introduced competition into frequency coordination services and created opportunities for implementing centralized trunking technology on channels in the shared frequency bands below 800 MHz. The Commission made these rule changes effective six months after their publication in the Federal Register, which occurred on April 17, 1997.<sup>1</sup> Thus, these new rules become effective on October 17, 1997.

While these rules will become effective on October 17, 1997, we note the continued pendency of certain related matters. First, the Commission has received sixteen petitions for reconsideration of the *Second R&O* that challenge certain decisions regarding eligibility criteria for the two pools, the frequency coordination process, and the trunking rules. We take this opportunity to advise the public that licensing actions taken pursuant to these new rules will be subject to any relevant changes adopted by the Commission in its disposition of the pending reconsideration petitions. Second, on August 5, 1997, the Balanced Budget Act of 1997 (1997 Budget Act)<sup>2</sup> was signed into law. Sections 3002 and 3004 of the statute redefine "public safety" for certain purposes and expand the Commission's competitive bidding authority to apply to assignment of mutually exclusive applications in private wireless services.<sup>3</sup> While these provisions do not directly affect the rules scheduled to go into effect on October 17, 1997, they may bear on future consideration of these and related rules.

Notwithstanding the outstanding issues on reconsideration and the implementation of the provisions of the new statute, at this time the public interest would be best served by permitting the new rules to take effect on the scheduled date. These rules are designed to provide for a more efficient distribution of channels, permit licensees to better utilize technologically innovative and efficient equipment, and reduce costs and administrative burdens. Given these significant benefits, further delay is unwarranted.

By the Chief, Wireless Telecommunications Bureau.

Wireless Telecommunications Bureau contact: Ira Keltz at (202) 418-0680 or by E-Mail at [mayday@fcc.gov](mailto:mayday@fcc.gov).

-FCC-

<sup>1</sup> The summary of the *Second R&O*, including the new rules, was published in the Federal Register on April 17, 1997. See 62 FR 18834 (April 17, 1997).

<sup>2</sup> See Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997).

<sup>3</sup> See *id.* at §§ 3002, 3004, 111 Stat. at 258, 266.

0002

LAW OFFICES  
**BLOOSTON, MORDKOFKY, JACKSON & DICKENS**  
2120 L STREET, N.W.

HAROLD MORDKOFKY  
ROBERT M. JACKSON  
BENJAMIN H. DICKENS, JR.  
JOHN A. PRENDERGAST  
GERARD J. DUFFY  
ANDREW BROWN\*  
RICHARD D. RUBINO  
SUSAN J. BAHR  
D. CARY MITCHELL  
MICHAEL B. ADAMS, JR.

WASHINGTON, D.C. 20037

(202) 659-0830

FACSIMILE: (202) 828-5568

August 18, 1998

PERRY W. WOOFER  
LEGISLATIVE CONSULTANT

EUGENE MALISZEWSKYJ  
DIRECTOR OF ENGINEERING  
PRIVATE RADIO

SEAN A. AUSTIN  
DIRECTOR OF ENGINEERING  
COMMERCIAL RADIO

\* ADMITTED ONLY IN MAINE:  
SUPERVISION BY HAROLD MORDKOFKY,  
A MEMBER OF THE DC BAR

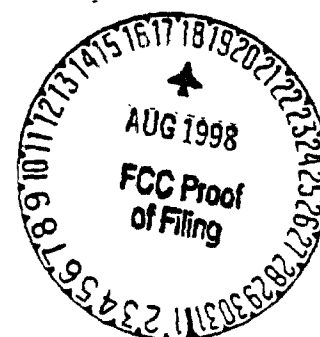
ARTHUR BLOOSTON  
RETIRED

**BY HAND DELIVERY**

WRITER'S DIRECT DIAL NO.

Mary Shultz, Chief  
Licensing and Technical Analysis Branch  
Public Safety & Private Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
1270 Fairfield Road  
Gettysburg, PA 17325-7245

RE: **Snows Lake Ranch**  
**Application for 452.550 MHz/457.550 MHz**  
**File No. AO19283/D108439**



Dear Ms. Shultz:

Enclosed please find an original and two copies of an informal protest filed on behalf of the California State Automobile Association in the above-referenced matter.

If you have any questions regarding this matter, please do not hesitate to contact this office.

Respectfully submitted,

*John A. Prendergast*  
John A. Prendergast

cc: George Meyers

# California State Automobile Association

SERVING THE MOTORIST SINCE 1900

JEAN R. WENTE  
CHAIR OF THE BOARD  
DONALD H. JAMES  
VICE CHAIR OF THE BOARD

STAFF OFFICERS  
JAMES P. MOLINELLI  
PRESIDENT  
REGORY A. SMITH  
SECRETARY  
LAWRENCE R. PENTIS  
TREASURER

150 VAN NESS AVENUE  
P.O. BOX 429186  
SAN FRANCISCO, CALIFORNIA 94142-9186



August 18, 1998

Mary Shultz, Chief  
Licensing and Technical Analysis Branch  
Public Safety & Private Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
1270 Fairfield Road  
Gettysburg, PA 17325-7245

RE: **Snows Lake Ranch**  
**Application for 452.550 MHz/457.550 MHz**  
**File No. AO19283/D108439**

Dear Ms. Shultz:

The California State Automobile Association, Inc. (CSAA) hereby requests that the Commission grant the application of Snows Lake Ranch (File No. AO19283/D108439) on a more suitable frequency since the channel coordinated (452.550 MHz) is already occupied by an incompatible user. As discussed below, granting a license to Snows Lake Ranch on the frequency 452.550 MHz would be adverse to the public interest, considering the intensive use of this frequency by CSAA for emergency road services, and in light of Congress' explicit recognition of the vital public safety role of such radio operations. At the very least, we ask the Commission to refrain from processing Snows Lake Ranch's application until the Commission has reached a final determination on how to implement Congress' mandate concerning the "quasi-public safety" status of automobile emergency radio operations.

CSAA is a not-for-profit organization responsible for providing emergency road services to approximately 3.8 million members in Northern California, Nevada and Utah. CSAA is currently licensed to operate on the channel 452.550 MHz, under Call Signs KQS607 and KGU645. During the frequency coordination process, the Personal Communications Industry Association (PCIA) recommended that the frequency 452.550 MHz be assigned to Snows Lake Ranch's proposed operation, paired with 457.550 MHz. As shown in Attachment A hereto, Snows Lake Ranch's proposed signal will overlap a substantial portion of CSAA's coverage on the same frequency.

As discussed below, the recommendation of frequency 452.550 MHz is objectionable on a number of grounds, including: (1) it

BOARD OF DIRECTORS  
RUDY V. BALMA, REDDING  
D. ROBERT BARLOW, WATSONVILLE  
JOHN M. BRYAN, PIEDMONT  
ROBERT J. CARDONZA, MODESTO  
PAULA R. COLLINS, SAN FRANCISCO  
T. FRANK GAMBLE, SANDY, UTAH  
NORMA J. HOWARD, NONATO  
RONALD R. JAMES, SAN JOSE  
JOHN T. KENDE, CARMMICHAEL  
FRANK J. LODATO, LOS ALTOS  
SYLVESTER LUCENA, CHICO  
ALISTAIR W. MCCORMACK, ARCATA  
WILLIAM E. MCNEANY, SANTA ROSA  
MARTIN C. NELSEN, FRESNO  
PATRICK O'NELVENY, ATHERTON  
DOUGLAS A. OSE, SACRAMENTO  
JEANNE M. PRYNE, VALLEJO  
DONALD J. ROMEO, M.D., LAS VEGAS  
LEO SOONG, WALNUT CREEK  
IVAN L. SUESS, LODI  
STEPHEN H. WANNWRIGHT, MERCED  
SHIRLEY A. WARD, SAN FRANCISCO  
JEAN R. WENTE, LIVERMORE  
KLINE A. WILSON, JR., OAKLAND  
  
HONORARY DIRECTORS  
VICTOR K. ATKINS, SANTA BARBARA  
JACK CRAEMER, SAN RAFAEL  
JACK F. DALY, JR., EUREKA  
HARMON E. DAVIS, WALNUT CREEK  
HARMON K. HOWARD, WALNUT CREEK  
MARVIN B. HUMPHREY, RENO  
FRANK McBRIDE, JR., SACRAMENTO  
STEPHEN G. MAGYAR, PACIFIC GROVE  
HARRY W. MCGOWAN, CHICO  
WILLIAM M. OTTERSON, MERCED

creates the problem of frequency congestion which raises public safety concerns; (2) it presents the prospect that a regulatory scheme will be implemented which conflicts with congressional intent; and (3) Snows Lake Ranch's proposed operation on the frequency 457.550 MHz appears to exceed the limit for maximum output power on this frequency, as prescribed in Section 90.35(c)(11) of the Commission's Rules.

Granting a license to Snows Lake Ranch on the 452.550 MHz frequency raises serious safety concerns. CSAA has been providing emergency road services for nearly one hundred years. It is evident, based on the number of emergency calls received by CSAA, that the public has come to rely on these services. Over the course of a year, CSAA responds to approximately 3 million emergency calls from motorists experiencing a wide variety of problems, many of which endanger the safety of drivers and passengers. Such situations require immediate attention. For example, CSAA often assists motorists who have been stranded on the road where they are vulnerable to harm from high-speed vehicles, adverse weather conditions, or crime.

State and local public safety agencies have also come to rely on the public safety services performed by CSAA. To facilitate communications between CSAA and public safety agencies, the telephone numbers of CSAA's dispatch centers have been programmed into the California Highway Patrol database and speed dialing systems. Police departments, 911 operators, and other public service agencies regularly call CSAA for assistance because they know that CSAA has the equipment, expertise and most importantly, the ability to respond quickly in these situations. In the absence of a prompt response by CSAA, these government agencies will be compelled to devote their own resources to clearing such hazards.

Indeed, this ability to respond immediately in urgent situations is the key to providing reliable automobile emergency road services. For this reason, it is essential that 452.550 MHz remains useable for its present operations. This frequency is already congested, particularly during the morning and evening rush hours when traffic accidents commonly occur, and CSAA is called into action. Typically, our tow truck operators use the channel 45-50 minutes out of the hour during rush hour, or extended storm periods. If Snows Lake Ranch is allowed to use the same frequency, it is foreseeable that important automobile emergency calls may not get through in time, which could threaten the safety of the motorists involved, and contribute to substantial traffic delays.

Granting a license to Snows Lake Ranch on the 452.550 MHz frequency would also be inconsistent with Congress' mandate to afford AAA and its auto clubs protection as quasi-public safety entities. In the Conference Report accompanying the Balanced



Budget Act of 1997, Congress explicitly recognized the important public safety role played by AAA auto clubs, noting that "the services offered by these entities protect the safety of life, health, or property and are not made commercially available to the public." H.R. Rep. No. 105-217, at 572 (1997). To ensure that auto clubs can continue to provide emergency road services to the public, Congress expressly exempted from the FCC's auction authority all licenses issued "for public safety radio services, including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations." Budget Act, Sec. 3002(a)(2)(A). Congress explained in the Conference Report that "[t]his service exemption also includes radio services used by not-for-profit organizations that offer emergency road services, such as the American Automobile Association. The Senate included this particular exemption in recognition of the valuable public safety service provided by emergency road services." H.R. Rep. No. 105-217, at 572 (1997). This language, which demonstrates Congress' intent to promote the types of public safety services offered by CSAA, supports our recommendation that Snows Lake Ranch be granted a license on another frequency.

To ensure that the Commission recognized this action by Congress, AAA formally requested that the Commission provide greater protection to the Automobile Emergency Radio Service (AERS) frequencies in its Petition for Reconsideration in PR Docket No. 92-235 (as supplemented on September 5, 1997). In addition, AAA asked that the Commission refrain from licensing non-auto club entities on the AERS channels by letter dated November 24, 1997.

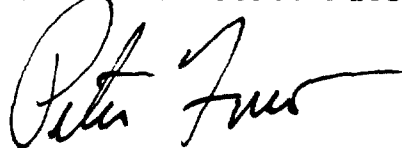
In its Public Notice dated October 15, 1997 (DA 97-2208) (Attachment B), the Commission acknowledged that the Balanced Budget Act, specifically Section 3002 (containing Congress' determination that the emergency road services constitute public safety services), may affect proceedings outside of the auction context. CSAA is exactly the kind of non-commercial organization Congress intended to protect. The Commission should therefore follow Congress' intent and protect CSAA, and the public, from the harm that would result if incompatible users are allowed to operate on the frequency 452.550 MHz.

We note that Snows Lake Ranch has proposed to operate on frequencies 452.550 MHz and 457.550 MHz, and will have an output power on the frequency 457.550 MHz which exceeds the 2 watt limit prescribed in Rule Section 90.35(c)(11). In light of this potential violation of Rule Section 90.35(c)(11), in addition to the problems and concerns associated with Snows Lake Ranch's proposed use of 452.550 MHz, the licensing of Snows Lake Ranch on the proposed frequency pair would be inconsistent with the Commission's rules.

For the above reasons, we ask that the Commission refrain from assigning Snows Lake Ranch the frequency 452.550 MHz.

Respectfully submitted,

California State Automobile Association

A handwritten signature in black ink, appearing to read "Peter Fuerst". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

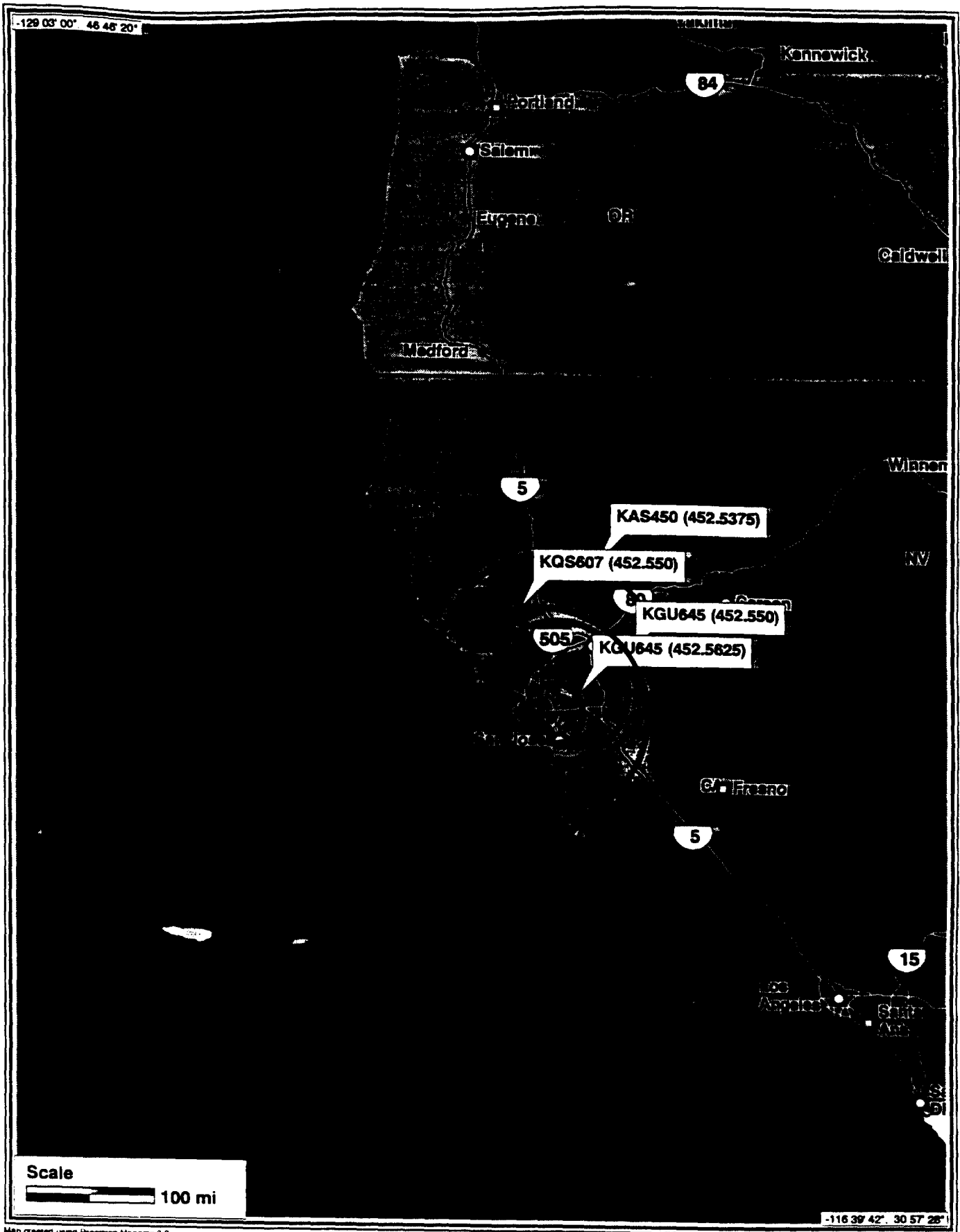
Peter Fuerst  
Emergency Road Service Supervisor

Attachment

cc: George Meyers

# **ATTACHMENT A**

# CURRENT MAP



## **ATTACHMENT B**



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
1919 M STREET, N.W.  
WASHINGTON, D.C. 20554

DA 97-2208

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> [ftp.fcc.gov](ftp://ftp.fcc.gov)

Released: October 15, 1997

## **RULES ADOPTED IN THE REFORMING *SECOND REPORT AND ORDER* (PR DOCKET NO. 92-235) TO GO INTO EFFECT OCTOBER 17, 1997**

On February 20, 1997, the Commission adopted the *Second Report and Order (Second R&O)* in PR Docket No. 92-235. By this action, the Commission consolidated the twenty Private Land Mobile Radio Services into two broad pools - Public Safety and Industrial/Business. Additionally, the *Second R&O* introduced competition into frequency coordination services and created opportunities for implementing centralized trunking technology on channels in the shared frequency bands below 800 MHz. The Commission made these rule changes effective six months after their publication in the Federal Register, which occurred on April 17, 1997.<sup>1</sup> Thus, these new rules become effective on October 17, 1997.

While these rules will become effective on October 17, 1997, we note the continued pendency of certain related matters. First, the Commission has received sixteen petitions for reconsideration of the *Second R&O* that challenge certain decisions regarding eligibility criteria for the two pools, the frequency coordination process, and the trunking rules. We take this opportunity to advise the public that licensing actions taken pursuant to these new rules will be subject to any relevant changes adopted by the Commission in its disposition of the pending reconsideration petitions. Second, on August 5, 1997, the Balanced Budget Act of 1997 (1997 Budget Act)<sup>2</sup> was signed into law. Sections 3002 and 3004 of the statute redefine "public safety" for certain purposes and expand the Commission's competitive bidding authority to apply to assignment of mutually exclusive applications in private wireless services.<sup>3</sup> While these provisions do not directly affect the rules scheduled to go into effect on October 17, 1997, they may bear on future consideration of these and related rules.

Notwithstanding the outstanding issues on reconsideration and the implementation of the provisions of the new statute, at this time the public interest would be best served by permitting the new rules to take effect on the scheduled date. These rules are designed to provide for a more efficient distribution of channels, permit licensees to better utilize technologically innovative and efficient equipment, and reduce costs and administrative burdens. Given these significant benefits, further delay is unwarranted.

By the Chief, Wireless Telecommunications Bureau.

Wireless Telecommunications Bureau contact: Ira Keltz at (202) 418-0680 or by E-Mail at [mayday@fcc.gov](mailto:mayday@fcc.gov).

-FCC-

<sup>1</sup> The summary of the *Second R&O*, including the new rules, was published in the Federal Register on April 17, 1997. See 62 FR 18834 (April 17, 1997).

<sup>2</sup> See Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997).

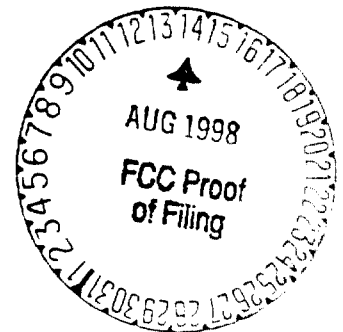
<sup>3</sup> See *id.* at §§ 3002, 3004, 111 Stat. at 258, 266.



*The Original Core Service*

August 13, 1998

Terry Fishel, Deputy Chief  
Licensing and Technical Analysis Branch  
Commercial Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
1270 Fairfield Road  
Gettysburg, PA 17325-7245



RE: Skitronics Inc.  
Application for 150.920 MHz/157.590 MHz  
File No. D104110  
Attention: JLG, SYS

Dear Mr. Fishel:

AAA Carolinas, Inc. (AAA Carolinas) hereby requests that the Commission grant the application of Skitronics, Inc. (Skitronics) (File No. D104110) on a more suitable frequency since the channel coordinated (150.920 MHz) is already occupied by an incompatible user. As discussed below, granting a license to Skitronics on the frequency 150.920 MHz would be adverse to the public interest, considering the intensive use of this frequency by AAA Carolinas for emergency road services, and in light of Congress' explicit recognition of the vital public safety role of such radio operations. At the very least, we ask the Commission to refrain from processing Skitronics' application until the Commission has reached a final determination on how to implement Congress' mandate concerning the "quasi-public safety" status of automobile emergency radio operations.

AAA Carolinas is a not-for-profit organization responsible for providing emergency road services to approximately 800,000 members in North and South Carolina. AAA Carolinas is currently

licensed to operate on the channel 150.920 MHz, under Call Sign WNMA846. PCIA has forwarded to the Commission Skitronics' referenced application, proposing FB6C Commercial Mobile Radio Service (CMRS) operations at Carrboro, North Carolina. During the frequency coordination process, the Personal Communications Industry Association (PCIA) recommended that the frequency 150.920 MHz be assigned to Skitronics' proposed operation, paired with 157.590 MHz. As shown in Attachment A hereto, Skitronics' proposed signal will overlap a substantial portion of AAA Carolinas' coverage on the same frequency. Thus, there is a significant area in which AAA Carolinas will have to compete for airtime with Skitronics' commercial customers, many of whom may use the frequency to carry on interconnected telephone conversations without regard to the efficient use procedures followed by AAA Carolinas.

As discussed below, the recommendation of frequency 150.920 MHz is objectionable on a number of grounds, including: (1) it creates the problem of frequency congestion which raises public safety concerns; (2) the frequency will be unable to support Skitronics' intended operations; (3) it presents the prospect that a regulatory scheme will be implemented which conflicts with Congressional intent; and (4) Skitronics' proposal for multiple frequencies in the same area appears to be inconsistent with Rule Section 90.35(e).

Grant a license to Skitronics on the 150.920 MHz frequency raises serious safety concerns. AAA Carolinas has been providing emergency road services since 1922. It is evident, based on the number of emergency calls received by AAA Carolinas, that the public has come to rely on these services. Over the course of the year, AAA Carolinas responds to approximately 570,000 emergency road service calls from motorists experiencing a wide variety of problems, many of which endanger the safety of drivers and passengers. Such situations require immediate attention. For example, AAA Carolinas often assists motorists who have been stranded on the road where they are vulnerable to harm from high-speed vehicles, adverse weather conditions, or crime.

State and local public safety agencies have also come to rely on the public safety services performed by AAA Carolinas. Police departments and 911 operators regularly call AAA Carolinas for assistance in handling roadway accidents, or natural disasters, because they know that AAA Carolinas has the equipment, expertise and most importantly, the ability to respond quickly in these situations. For example, when Charlotte, North Carolina experienced severe flooding in the summer of 1997, AAA Carolinas displayed its ability to utilize its radios to serve the public interest by dispatching its fleet of vehicles to rescue motorists and cars caught in flooded areas, and by using its equipment to remove fallen trees and structures from roadways. In the absence of a prompt response by AAA, government



agencies will be compelled to devote their own resources to clearing such hazards.

Indeed, this ability to respond immediately in urgent situations is the key to providing reliable automobile emergency road services. For this reason, it is essential that 150.920 MHz remains useable for its present operations. This frequency is already congested, particularly during the morning and evening rush hours when traffic accidents commonly occur, and AAA Carolinas is called into action. Typically, our tow truck operators use the channel 45 minutes out of the hour during rush hour. If Skitronics is allowed to use the same frequency, it is foreseeable that important automobile emergency calls may not get through in time, which could threaten the safety of the motorists involved, and contribute to substantial traffic delays. Skitronics' proposal to provide interconnected CMRS on the frequency 150.920 MHz is particularly incompatible with existing auto club operations. By definition, the objective of any CMRS provider is to load as many users as possible onto their assigned channels, so that their operations will be profitable. Thus, to protect the public interest, and to be fair to Skitronics which may not be able to successfully promote interconnected services on such a congested frequency, we request that the Commission grant a license to Skitronics on a more suitable frequency.

Granting a license to Skitronics on the 150.920 MHz frequency would also be inconsistent with Congress' mandate to afford AAA and its auto clubs protection as quasi-public safety entities. In the Conference Report accompanying the Balanced Budget Act of 1997, Congress explicitly recognized the important public safety role played by AAA auto clubs, noting that "the services offered by these entities protect the safety of life, health, or property and are not made commercially available to the public." H.R. Rep. No. 105-217, at 572 (1997). To ensure that auto clubs can continue to provide emergency road services to the public, Congress expressly exempted from the FCC's auction authority all licenses issued "for public safety radio services, including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations." Budget Act, Sec. 3002(a)(2)(A). Congress explained in the Conference Report that "[t]his service exemption also includes radio services used by not-for-profit organizations that offer emergency road services, such as the American Automobile Association. The Senate included this particular exemption in recognition of the valuable public safety service provided by emergency road services." H.R. Rep. No. 105-217, at 572 (1997). This language, which demonstrates Congress' intent to promote the types of public safety services offered by AAA Carolinas, supports our recommendation that Skitronics be granted a license on another frequency.